

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**AMBAC ASSURANCE CORPORATION'S STATUS REPORT CONCERNING
AMBAC'S URGENT MOTION TO COMPEL MILLIMAN INC. TO COMPLY WITH
SUBPOENA ISSUED PURSUANT TO THE COURT'S JANUARY 13, 2021 ORDER
AUTHORIZING RULE 2004 DISCOVERY (ECF. 16487)**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Chambers of the Honorable Judith G. Dein:

Ambac Assurance Corporation (“Ambac”) respectfully submits this Status Report pursuant to the Court’s order dated June 2, 2021 (ECF No. 16867).²

PROCEDURAL BACKGROUND

1. On April 20, 2021, Ambac filed its Urgent Motion to Compel Milliman, Inc. To Comply with Subpoena Issued Pursuant to the Court’s January 13, 2021 Order Authorizing Rule 2004 Discovery (ECF No. 16487).

2. On May 11, 2021, Milliman responded to Ambac’s motion to compel (ECF No. 16734), as did the Government Parties (ECF No. 16737).

3. On May 25, 2021, Ambac submitted a Memorandum of Law in Further Support of Ambac’s Urgent Motion to Compel Milliman (“Ambac’s Reply”) (ECF No. 16803). In Ambac’s Reply, Ambac represented that Milliman had made an additional production since Ambac filed its motion to compel and that the parties were schedule to meet and confer on May 26, 2021.

4. On June 2, 2021, the Court issued an order requiring Ambac to submit a status report by June 8, 2021 and Milliman and the Government Parties to submit a response to Ambac’s status report by June 11, 2021. (ECF No. 16867)

MILLIMAN’S RECENT PRODUCTION

5. On May 24, 2021, Milliman made its second production of documents to Ambac. That production consisted of 165 documents, many of which were duplicates and none of which were internal Milliman communications.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in *Ambac’s Urgent Motion to Compel Milliman, Inc. to Comply with Subpoena Issued Pursuant to The Court’s January 13, 2021 Order Authorizing Rule 2004 Discovery* (ECF No. 16487).

6. As of the date of this report, Milliman has not made any additional productions to Ambac.

THE MAY 26 MEET AND CONFER

7. On May 26, 2021, counsel for Ambac and Milliman met and conferred concerning Milliman's response to Ambac's Subpoena.

8. In response to Ambac's request for more information regarding the documents in Milliman's possession concerning the Actuarial Valuation Reports, Milliman agreed to provide a description of the documents on Milliman's shared drive, including a list of the folders therein, and confirmation as to whether there are any potentially relevant hard copy documents.

9. In response to Ambac's request for internal Milliman communications, Milliman agreed to provide a list of Milliman custodians who worked on the Actuarial Valuation Reports and proposed search terms for Ambac's review.

10. During the meet and confer, Ambac also renewed its request that Milliman produce the 2018 Actuarial Valuation Reports for each of the pension systems. Milliman refused, noting that the reports have not been published and that the Board would make the determination when they will be published. No explanation has been given by the Board or Milliman for this delay. Reserving all rights, Ambac requested that Milliman produce all data, studies, mortality tables, and other information that underlies the 2018 Actuarial Valuation Report (including but not limited to edited census data, mortality tables, and experience and assumption studies).

DEVELOPMENTS FOLLOWING THE MEET AND CONFER

11. On June 1, 2021, Ambac sent Milliman an email memorializing its understanding of the meet and confer. (*See* Ex. 1.) Milliman's response on June 7, 2021 ("Milliman's June 7 Email") confirms that the "electronic project files (what is stored on Milliman's network) for the

2016-2017 valuations” – which have not been produced – “consist of over 100 gigabytes of dates and thousands of files.” (*See id.*) Milliman has not committed to producing these files; instead it merely stated that it will “circle back” after the documents have been reviewed. Milliman’s June 7 Email also confirms that there are “probably two bankers’ boxes worth of printed out materials that Milliman has saved.” Milliman has not agreed to produce these documents either.

12. With respect to internal correspondence, Milliman provided a list of potential custodians, and proposed search terms.

13. With respect to Ambac’s request for the data, studies, mortality tables, and other information that underlies the 2018 Actuarial Valuation Report, Milliman has asked that Ambac “be more specific,” and asked whether Ambac is seeking the “project files.”

ISSUES LEFT FOR THE COURT TO RESOLVE

14. Milliman continues to refuse to produce its 2018 Actuarial Valuation Report in its entirety, and should be compelled to produce it immediately.

15. Milliman has identified the electronic project files for the 2016-2017 valuations, but has not agreed to produce them. Milliman should be compelled to produce these files immediately in their entirety.

16. Milliman has not agreed to produce the data, studies, mortality tables, and other information that underlies the 2018 Actuarial Valuation Report. Milliman should be compelled to produce such data and information immediately, including the “project files” Milliman identified.

17. Milliman has not agreed to produce its document retention policy, and should be compelled to do so immediately.

18. Milliman has not agreed to produce documents and communications “concerning any guidelines, policies, procedures, practices, rules, staff instructions, or standards applicable to

the Pension System or used by the Pension Systems” (Request No. 6). Milliman should be compelled to produce such documents and communications immediately.

19. Though Milliman has proposed custodians and search terms for the production of internal correspondence, Milliman has not provided an estimated date for that production, let alone a date certain. Milliman should be compelled to produce these documents within two weeks.

20. Accordingly, Ambac continues to seek the entirety of the relief sought in the Motion.

Dated: June 8, 2021
San Juan, Puerto Rico

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CERTIFICATE OF SERVICE

I hereby certify that on this same date a true and exact copy of this notice was filed with the Clerk of Court using the CM/ECF system, which will notify a copy to counsel of record.

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